

24 February 1987
OCA 87-0614

MEMORANDUM FOR: Deputy Director of Personnel
Chief, Insurance Branch/OP
Chief, Administrative Law Division/OGC

FROM: Legislation Division
Office of Congressional Affairs

SUBJECT: Long-Term Care Insurance

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1. Attached is a copy of an Office of Personnel Management draft bill designed to make long-term health care insurance available to Federal employees. As our views are due to the Office of Management and Budget by 27 February 1987, I request that you review this bill and refer your comments to me at your earliest convenience.

2. The proposal is designed to meet the projected needs of the anticipated substantial increase in persons over 80 who will need long-term care in the next several decades. It will provide a new option in the Federal Employees' Group Life Insurance (FEGLI) Program to allow Federal employees who are at least 50 years old and who have been program participants for at least 10 years to convert a certain portion of basic life insurance to long-term care insurance. The employee's participation in optional FEGLI plans would not be affected. The Government would continue to pay its present one-third share of program costs and would not be required to contribute more.

3. You may relay your comments and any questions to me via secure

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Attachment:
as stated

Distribution:

- 1 - Each Addressee
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- OCA/LEG (24 Feb 87)

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UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

Honorable George Bush
President of the Senate
Washington, DC 20510

Dear Mr. President:

The Office of Personnel Management submits herewith a legislative proposal, "To make long-term care insurance available to civilian Federal employees, and for other purposes."

This proposal will give Federal employees access to a unique and critically-needed benefit in a manner that is fully consistent with the Administration's policies with respect to budgetary restraint and emphasis on utilizing private sector services to the maximum extent in addressing public needs. Moreover, it will advance a key Administration priority in the health care area, that is, the development of mechanisms to offer protection to older Americans against the devastating costs associated with chronic, debilitating illness.

In view of the increases in longevity already attained, and the near explosion predicted in the over-age-80 population during the next few decades, the need for long-term care services will continue to expand. Although our proposal for long-term care (LTC) insurance is designed exclusively to benefit Federal employees, it will also provide a valuable opportunity to educate the American public in general to the likelihood that they will need LTC for a chronic illness and to the impending threat to their financial well-being. Few people realize that neither Medicare nor typical health insurance policies will pay for expenses associated with long nursing home confinements or similar home health care arrangements. We expect that OPM's proposal will stimulate discussion and development of variations on the Federal employee program throughout the insurance marketplace.

In order to keep the cost of LTC insurance reasonably affordable, OPM has determined that the best approach would be to encourage middle-aged individuals to gradually set aside funds over a period well in advance of when benefits will likely be needed. A large, consolidated risk pool is also desirable. Since the Federal Employees' Group Life Insurance (FGLI) Program is structured to permit such long-term financing of benefits and

Honorable George Bush

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approximately 90 percent of Federal employees participate in the program, FEGLI presents an ideal vehicle for providing LTC insurance. (Our existing health insurance program, in contrast, has a subdivided risk pool and only short-term financing.) In addition, as wage earners approach their mature years, family responsibilities and the need for large amounts of life insurance typically decrease. Thus, instead of carrying a large amount of life insurance coverage into retirement, as is the current practice, we believe that many employees will be better served by converting some portion of their basic life insurance coverage to insurance providing LTC benefits. Such conversion would, of course, be entirely voluntary under OPM's proposal.

Specifically, our proposal would add a new option under the FEGLI Program which would allow Federal employees who are at least 50 years old and have been program participants for a total of at least 10 years to convert the lesser of:

(A) the face value of basic life insurance in excess of \$2,000, or

(B) such portion of the face value of basic life insurance in excess of \$2,000 as OPM regulations shall specify,

to LTC insurance. (OPM anticipates that the regulatory conversion requirement will be established at about \$25,000.)

When an employee elects the LTC option, he would commence paying an age-adjusted LTC premium each pay period (based upon age at time of conversion) in addition to the usual employee contribution toward the cost of each remaining \$1,000 of basic life insurance. (For employees who convert at age 50, OPM estimates that the LTC premium would be approximately \$11 biweekly.) For an additional premium, employees could also provide LTC coverage for a spouse. OPM regulations would establish rates of reimbursement for expenses associated with nursing home and other qualifying care arrangements; for example, \$40 per day for nursing home confinement and \$20 per visit for home health care. Benefits would be available for a period of at least 3 years.

Each of the above amounts established by OPM regulations would be indexed to increases in General Schedule pay rates and further adjusted at such other times as OPM regulations may prescribe. The Government would continue to pay its present one-third share of program costs associated with the basic insurance amount corresponding to each insured individual's annual rate of basic pay. No additional Government expenditures would be required.

An employee's participation in the existing optional FEGLI coverages would be unaffected by the decision concerning basic life insurance conversion. Thus, employees who need to retain substantial amounts of life insurance would still have access to optional life insurance providing death benefits of up to five times their salary. In addition, if Federal service terminates prior to retirement, the employee could convert to an individual policy of life insurance as if the LTC election had not been made.

In summary, our proposal would offer Federal employees an opportunity during their middle years to reassess the types and levels of insurance protection they will need during their subsequent years and to trade off, if they so choose, a portion of their basic life insurance coverage for long-term care benefits. It updates an old program to accommodate a new and urgent need and it achieves this goal without adding to the deficit or creating or expanding any Governmental entity.

In addition to the LTC proposal, section 1(3) of the draft bill proposes to add a new subsection 8708(d) to title 5, United States Code, regarding Government contributions for basic insurance coverage. This is a technical amendment to correct an oversight in the Federal Employees' Group Life Insurance Act of 1980, Public Law 96-427. That act amended the FEGLI law to require employees who become eligible after 1989 to retain basic insurance while retired or receiving worker's compensation to continue employee contributions for basic insurance coverage to age 65. There was no amendment to section 8708 of title 5, however, to provide funding for the corresponding Government contributions which will be required under subsection 8708(a).

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

A similar letter is being sent to the Speaker of the House of Representatives.

A BILL

To make long-term care insurance available to civilian Federal employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 87 of title 5, United States Code, is amended--

(1) in section 8704, by adding a new subsection (e) to read:

"(e)(1) Consistent with the conditions, directives, and terms specified in section 8709 and 8712 of this title, the Office shall arrange for each qualified employee, as defined in paragraph (4) of this subsection, to have an opportunity to irrevocably convert a portion of the employee's basic insurance amount for purposes of group life insurance and accidental death and dismemberment insurance under this section to group long-term care insurance. The long-term care insurance shall provide specified benefits for a period of at least 3 years' duration to offset expenses related to nursing home and home health services required by the employee. In addition to the life insurance conversion requirement under this paragraph, the Office shall prescribe appropriate employee contributions which will be payable for all periods during which long-term care insurance continues and will be withheld from any salary, compensation, or retirement annuity due an insured individual. Each employee's contribution rate shall be determined by the employee's age, at the time an election is made for purposes of this subsection, relative to such age and rate categories as the Office determines will, with adjustments provided for by paragraph (3) below, fully

cover long-term care policy costs. The Office shall also arrange for qualified employees who elect the life insurance conversion for purposes of this subsection to have a further option of purchasing supplementary long-term care insurance coverage on a spouse, without evidence of such spouse's insurability and at appropriate group rates added to the employee's individual contribution rate. An employee may cease contributions under this subsection at any time, in which case the long-term care insurance shall terminate, with no restoration of group life insurance coverage.

"(2) All employees who convert to long-term care insurance under this subsection shall retain a residual amount of the group life insurance and accidental death and dismemberment insurance authorized under this section which shall equal the greater of--

"(A) \$2,000, or

"(B) an amount representing the basic insurance amount generally available based on the employee's current annual rate of basic pay decreased by the life insurance conversion requirement on the date the employee elected long-term care insurance.

"(3) For purposes of this subsection, the regulations of the Office shall specify the initial dollar amounts for: the life insurance conversion requirement; the reimbursement rates for long-term care insurance benefits; and periodic employee contributions for self and for spouse coverage based on age categories of qualified employees as the Office considers appropriate. All amounts determined in accordance with this

paragraph shall be subsequently adjusted on the effective date, and in accordance with the average percent, of any change in pay rates for the General Schedule authorized under section 5305 of this title, and at such other times as the Office deems necessary and prescribes by regulation.

"(4) A qualified employee for purposes of this subsection is any employee in active service who has attained at least age 50, has been insured under this chapter for a total of at least 10 years, and has not transferred ownership of life insurance to another person under section 8706(f) of this chapter.

"(5) An election under this subsection shall be disregarded for purposes of determining an employee's basic insurance amount for purposes of section 8706(a) of this chapter concerning conversion to an individual policy of life insurance.";

(2) by amending subsection 8708(a) to read:

"(a) Except as otherwise provided by this subsection, for each period in which an employee is insured under a policy of insurance purchased by the Office of Personnel Management under section 8709 of this title, a sum equal to one-half the employee withholding specified under subsection 8707(c) of this title shall be contributed from the appropriation or fund used to pay the employee.";

(3) in section 8708, by adding subsections (d) and (e) to read:

"(d) The sum required by subsection (a) of this section in the case of each employee who retires on immediate annuity or commences receiving compensation under subchapter I of Chapter 81

of this title after December 31, 1989, and who elects to retain insurance in accordance with 8706(b)(3)(A) of this chapter, shall be paid by the Office from annual appropriations which are hereby authorized to be made for that purpose and which may be made available until expended.

"(e) Contributions under this section shall be determined without regard to any election an employee makes under subsection 8704(e) of this chapter for purposes of long-term care insurance.";

(4) in subsection 8709(a) by revising the first sentence to read:

"(a) The Office of Personnel Management, without regard to section 5 of title 41, United States Code, may purchase from one or more life insurance companies a policy or policies to provide benefits specified by this chapter, including group life insurance, accidental death and dismemberment insurance, and long-term care insurance."; and

(5) in the first sentence of subsection 8714(a) by inserting "or 8704(e)" after "8707".

Sec. 2. This Act shall take effect on January 1 of the first year which begins at least 120 days after enactment.

STATEMENT OF PURPOSE AND JUSTIFICATION

To accompany a draft bill

"To make long-term care insurance available to civilian Federal employees, and for other purposes."

This proposal would restructure the existing Federal Employees' Group Life Insurance (FEGLI) Program to offer older employees the option of converting a portion of group life insurance protection to long-term care insurance. The long-term care insurance would provide benefits to offset expenses associated with nursing home and home health care services required by an employee, retiree, or covered spouse for chronic, debilitating illnesses.

The American population over age 65 is growing faster than the population as a whole. Approximately one-fourth of the over-65 population can expect to spend some time in a long-term care facility. For Federal employees, as for Americans generally, the most significant uninsured event of potentially catastrophic impact is the expense associated with nursing home or other long-term care arrangements.

As wage earners approach their mature years, family responsibilities and the need for large amounts of life insurance typically decrease while the vulnerability to chronic illnesses increases. Instead of carrying a large amount of life insurance coverage into retirement, as is the current practice for Federal employees, many employees would be better served if they had the option of converting some portion of basic life insurance coverage to insurance providing long-term care benefits.

This proposal would add a new option to the FEGLI Program that would allow Federal employees who are at least 50 years old and have been program participants for a total of at least 10 years to convert a portion of basic insurance to long-term care insurance. The employee would then pay an additional long-term care premium each pay period and the Government would continue to make the usual basic insurance contributions based on the employee's basic pay rate. For an additional premium, the employee could secure supplementary long-term care coverage for a spouse. Employees who need to retain substantial amounts of life insurance would still have access to optional life insurance providing death benefits of up to five times their salary. Under this proposal, Federal employees will have access to a unique and critically-needed benefit in a manner consistent with the Administration's policies relative to budgetary restraint and reliance on private sector services.